

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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IRA MARIE JIMMERTON,

Case No. 2:23-cv-00918-MMD-VCF

v.

Plaintiff,

ALBERTSON'S LLC,

Defendant.

ORDER

This case comes before the Court through Defendant Albertson's LLC's Petition for Removal. (ECF No. 1 ("Petition").) Plaintiff Ira Marie Jimmerson filed this action in the Eighth Judicial District Court in Clark County, Nevada, after slipping on liquid and falling in an Albertson's store in Las Vegas, Nevada. (ECF No. 1-3 at 4.) Plaintiff asserts claims of negligence and premises liability. (*Id.* at 5-8.)

Defendant removed the action on the basis of 28 U.S.C. § 1332. Based on the Court's review of the Petition, questions exist as to whether the Court has jurisdiction over this case. See *United Invs. Life Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 967 (9th Cir. 2004) ("[T]he district court had a duty to establish subject matter jurisdiction over the removed action *sua sponte*, whether the parties raised the issue or not."). Defendant bears the burden of demonstrating by a preponderance of the evidence that the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1446(c)(2)(B); *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699-701 (9th Cir. 2007).

Plaintiff's state-court complaint (ECF No. 1-3 ("Complaint")) seeks general damages in excess of \$15,000 and special damages in excess of \$15,000, among other remedies. (*Id.* at 7-8.) In addition to the Complaint, Plaintiff filed a Request for Exemption from Arbitration (ECF No. 1-5 ("Request")) in state court, which states Plaintiff fell and sustained serious injuries on the right side of her body. (*Id.* at 3.) The

1 Request further notes that as of June 12, 2023, Plaintiff's medical costs totaled
2 \$40,936.01, and that Plaintiff's probable jury award would exceed \$50,000. (*Id.*) Neither
3 the Complaint nor the Request suggests that the amount in controversy exceeds
4 \$75,000, and Defendant does not clearly explain why Plaintiff's lost wages, future
5 medical expenses, and other damages total more than \$34,064 to meet the amount-in-
6 controversy requirement. (See ECF No. 1 at 2-3.) The Court questions whether
7 Defendant has met its burden of demonstrating an adequate amount in controversy.

8 For these reasons, Defendant will be directed to show cause as to why this
9 action should not be remanded for lack of subject matter jurisdiction. Plaintiff may file a
10 response in compliance with Local Rule 7-2.

11 It is therefore ordered that, within 15 days from the entry of this Order, Defendant
12 must show cause in writing as to why this case should not be remanded for lack of
13 subject matter jurisdiction.

14 DATED THIS 15th Day of June 2023.
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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

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